

copy of your comments, you must file an original plus nine copies. You should send comments and reply comments to Office of the Secretary, Federal Communications Commission, Washington, DC 20554. Comments and reply comments will be available for public inspection during regular business hours in the Dockets Reference Room of the Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

13. *Ex Parte Rules—Non-Restricted Proceeding.* This is a non-restricted notice and comment rule making proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in Commission rules. See generally 47 CFR 1.1202, 1.1203, and 1.1206(a).

14. For further information on this proceeding contact David Wilson, Technical Standards Branch, Office of Engineering and Technology, 202-653-8138.

List of Subjects in 47 CFR Part 15

Communications equipment, Television, Home improvement.

Part 15 of title 47 of the Code of Federal Regulations is proposed to be amended to read as follows:

PART 15—RADIO FREQUENCY DEVICES

1. The authority citation for part 15 continues to read as follows:

Authority: Sec. 4, 302, 303, and 307 of the Communications Act of 1934, as amended, 47 U.S.C. 154, 302, 303, and 307.

2. Section 15.107 is amended by revising paragraph (c) to read as follows:

§ 15.107 Conducted limits.

(c) The limits shown in paragraphs (a) and (b) of this section shall not apply to carrier current systems operating as unintentional radiators on frequencies below 30 MHz. In lieu thereof, these carrier current systems shall be subject to the following standards:

(1) For carrier current systems containing their fundamental emission within the frequency band 535-1705 kHz and intended to be received using a standard AM broadcast receiver: No limit on conducted emissions.

(2) For all other carrier current systems: 1000 uV within the frequency band 535-1705 kHz.

(3) Carrier current systems operating below 30 MHz are also subject to the radiated emission limits in § 15.109(e).

3. Section 15.115(b)(3) is revised to read as follows:

§ 15.115 TV interface devices, including cable system terminal devices.

- (b) * * *
- (3) The term "master antenna" used in this paragraph refers to TV interface devices employed for central distribution within a building. Such TV interface devices must be designed to:
- (i) Distribute multiple television signals at the same time;
 - (ii) Distribute such signals by cable to all TV broadcast receivers in the building in which they are installed; and
 - (iii) Distribute all over-the-air and, if appropriate, cable signals.

Note: Cable-ready video cassette recorders continue to be subject to the provisions for general TV interface devices.

4. Section 15.207 is amended by revising paragraph (b) to read as follows:

§ 15.207 Conducted limits.

(b) The limit shown in paragraph (a) of this section shall not apply to carrier current systems operating as intentional radiators on frequencies below 30 MHz. In lieu thereof, these carrier current systems shall be subject to the following standards:

(1) For carrier current systems containing their fundamental emission within the frequency band 535-1705 kHz and intended to be received using a standard AM broadcast receiver: No limit on conducted emissions.

(2) For all other carrier current systems: 1000 uV within the frequency band 535-1705 kHz.

(3) Carrier current systems operating below 30 MHz are also subject to the radiated emission limits in §§ 15.205 and 15.209, 15.221, 15.223, 15.225 or § 15.227, as appropriate.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 91-23141 Filed 9-24-91; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 63

[CC Docket No. 91-273; FCC 91-285]

Notification by Common Carriers of Service Disruptions

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This notice of proposed rulemaking (NPRM) seeks comment on the Federal Communications Commission's proposed amendment to part 63 of its rules governing extension of lines and discontinuance of service by carriers. We propose to add § 63.100 to the rules to require that selected facilities-based common carriers notify the Commission, in writing, within 90 minutes of the commencement of the service outage, of disruptions to the carriers' service that affects a substantial number of customers for 30 minutes or more. Recent incidents of facilities-based common carrier service disruptions demonstrate that the Commission's informal mechanisms for gathering information about network outages are inadequate. The proposed rule amendment is designed to improve the reporting procedure of Carriers with a view to enhancing service reliability.

DATES: Pursuant to § 1.415 of the rules, 47 CFR 1.415, interested persons are afforded an opportunity to participate in this rulemaking proceeding through the written submission of data, views or arguments. The Commission requests comment on all aspects of the proposal and the specific proposed rule. Comments must be filed on or before November 26, and reply comments on or before December 30, 1991. The requirements for filing comments in a rulemaking proceeding are contained in § 1.419 of the rules, 47 CFR 1.419.

ADDRESSES: Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Abraham A. Leib, Chief (202) 634-1816, or Jim Ferris (202) 634-1830, Domestic Services Branch, Domestic Facilities Division, Common Carrier Bureau.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's NPRM in CC Docket No. 91-273, FCC 91-285, adopted September 16, and released September 19, 1991. The item is available for inspection and copying during normal hours in the Commission's Dockets Branch (room 230), 1919 M St., NW., Washington, DC, or a copy may be purchased from the duplicating contractor, Downtown Copy Center (202) 452-1422, 1114 21st St., NW., Washington, DC 20036. The NPRM will be published in the FCC Record.

OMB Review

The following collection of information contained in the proposed rule has been submitted to the Office of Management and Budget for review under section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3504(h)).

Copies of this submission may be purchased from the Downtown Copy Center (202) 452-1422, 1114 21st St., NW., Washington, DC 20036. Persons wishing to comment on this information collection should direct their comments to Jonas Neibardt (202) 395-4814, Office of Management and Budget (OMB), room 3235 NEOB Washington, DC 20503. Copies of comments filed with OMB shall be sent also to the Federal Communications Commission, Information Resources Branch, Paperwork Reduction Project, room 416, Washington, DC 20554. For further information contact Judy Boley at the Commission, (202) 632-7513.

Title: Amendment of part 63 of the Commission's Rules to Provide for Notification by Common Carriers of Service Disruptions.

OMB Number: None.

Action: Proposed new collection, and amendment of rules.

Respondents: Businesses or others for profit.

Frequency of Response: On occasion and other. Initial report due 90 minutes after service disruption; final report required 30 days thereafter.

Estimated Annual Burden: 56 responses; 2.3 hours per response; 129 hours total. The information to be furnished is generally gathered by carriers after outage events, so providing it to the Commission should not be burdensome. See 5 CFR part 1320 (53 FR 16618, May 10, 1988).

Needs and Uses: The NPRM solicits public comment on the Commission's proposal to amend part 63 of its rules, 47 CFR part 63, to require the filing of service disruption reports by any facilities-based common carrier that provides access service or that provides interstate or international telephone service. Under this proposal an Initial Service Disruption Report delivered to Commission headquarters, by facsimile or other record means within 90 minutes of the commencement of the service outage, would be required when such a carrier experiences a loss of telephone service to 50,000 or more of its customers or voice grade equivalent circuits, if the service loss continues for 30 or more minutes. Thirty days after the incident, carriers would be required to file with the Chief, Common Carrier Bureau, a Final Service Disruption Report, providing all available information on the incident, including any information not contained in their initial reports.

The Commission requests comment on all aspects of the proposal and the specific proposed rule, and has offered a number of questions which interested persons may address. The proposed

reporting requirement should permit the Commission to detect, in a more prompt and reliable manner, the causes and frequency of major failures in telecommunications services.

Summary of NPRM

1. Recently, a number of incidents have occurred in which the introduction of new technology into the telecommunications infrastructure has led to service disruptions. In January of 1990, for example, AT&T experienced a large scale service failure when software used with its Signaling System 7 (SS7) network contained a coding error. Other major interexchange carriers also have experienced outages associated with the introduction of SS7. In June and July of this year, local exchange carriers Pacific Bell and Bell Atlantic also experienced major outages. Currently, the Commission has no systematic way by which to become informed quickly of significant service disruptions and is unable to determine whether certain kinds of technology or equipment threaten service reliability. The proposed rule will provide a vehicle by which the Commission will better be informed of telephone network reliability, including the steps taken by carriers to restore service and to prevent further outages.

2. The NPRM proposes to amend part 63 of the rules to require the filing of service disruption reports by any facilities-based common carrier that provides access service or that provides interstate or international telephone service. Written reports would be required when such a carrier experiences a loss of telephone service to 50,000 or more of its customers or voice grade equivalent circuits, if the service loss continues for 30 or more minutes. Carriers would be required to notify the Commission within 90 minutes of the commencement of any such service outage. An Initial Service Disruption Report, in a prescribed format, would be served on the Commission's Monitoring Watch Officer, on duty 24 hours a day, by facsimile or other record means delivered to Commission headquarters. Thirty days after the service disruption, the carrier would file with the Chief, Common Carrier Bureau, a Final Service Disruption Report, providing all available information on the incident, including any information not contained in its Initial Service Disruption Report.

Regulatory Flexibility Analysis: We certify that the Regulatory Flexibility Act of 1980 does not apply to this rulemaking proceeding because if the proposed rule amendment is promulgated, there will not be a

significant economic impact on a substantial number of small business entities, as defined in section 601(3) of the Regulatory Flexibility Act. The Secretary shall send a copy of this NPRM, including the certification, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act, Public Law No. 96-354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.* (1981).

Ex Parte Presentations: This is a nonrestricted notice and comment rulemaking proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as required by Commission rules. See generally 47 CFR 1.1202, 1.1203 and 1.1206(a).

Legal Basis: Sections 1, 4, 201-205, 218, 220 and 403 of the Communications Act of 1934, as amended.

List of Subjects in 47 CFR Part 63

Telephone common carriers, Service disruptions, Reporting and recordkeeping requirements.

Federal Communications Commissions.

Donna R. Searcy,

Secretary.

[FR Doc. 91-23142 Filed 9-24-91; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 192

[Docket No. PS-122, Notice 1]

RIN 2137-AB 15

Gas Gathering Line Definition

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revise the definition of the term "gathering line" so that the beginning and end of a gas gathering line are clearly described. The points where a gas gathering line begins and ends are confusing under the current definition. Identifying these points is important because gathering lines in onshore rural locations outside certain areas are not subject to the Federal gas pipeline safety standards, while gas transmission and distribution lines in those locations are subject to the standards. The proposed definition of gathering line would include pipelines used to transport gas from the first production facility down stream from the well to the inlet of the first natural

gas processing plant, the point of custody transfer of the gas, or the last point downstream where gas produced in the same or adjacent production fields is commingled. In addition, this notice proposes to define "production facility" and "production field."

DATES: Interested persons are invited to submit written comments on this proposal by November 25, 1991. Late filed comments will be considered to the extent practicable.

ADDRESSES: Comments should identify the docket and notice numbers and be submitted in duplicate to the Dockets Unit, room 8417, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Cesar De Leon on (202) 366-1640. This notice and all docketed materials are available for inspection and copying in room 8421, between 8:30 a.m. and 5 p.m. each working day, or telephone the Dockets Unit on (202) 366-5046.

SUPPLEMENTARY INFORMATION:

Problem

As a general concept, gas gathering is the first stage of pipeline transportation which collects gas from production sites for subsequent transmission to distribution systems or end use points. The Natural Gas Pipeline Safety Act of 1968 (49 App. U.S.C. 1671 *et seq.*) (the Act) and the Federal gas pipeline safety standards (49 CFR part 192) issued under that Act do not apply to the gathering of gas in rural locations that lie outside certain populated areas (49 App. U.S.C. 1671(3); 49 CFR 192.1(b)(2)). However, both the statute and the safety standards apply to the transmission and distribution of gas by pipeline in those rural locations. Thus, to determine whether a rural gas pipeline is subject to 49 CFR part 192, one must first determine whether the pipeline is a gathering line.

Operators and pipeline safety enforcement personnel have had difficulty distinguishing a gathering line from a transmission or distribution line. This difficulty arose because part 192 defines the term "gathering line" with reference to a "transmission line" or "main," a type of distribution line. It then defines the term "transmission line" with reference to a gathering line, and defines "distribution line" with reference to a gathering or transmission line:

"Distribution line" means a pipeline other than a gathering or transmission line.

"Gathering line" means a pipeline that transports gas from a current production facility to a transmission line or main.

"Transmission line" means a pipeline, other than a gathering line, that:

(a) Transports gas from a gathering line or storage facility to a distribution center or storage facility;

(b) Operates at a hoop stress of 20 percent or more of SMYS; or

(c) Transports gas within a storage field.

As a result of this cross-referencing, the point where a gathering line ends and transmission or distribution begins is often subject to varying interpretation. RSPA believes this ambiguity would be eliminated if the definition of "gathering line" in part 192 were clearly stated without reference to transmission or distribution lines.

Background

In an effort to clarify the definition of "gathering line," the Office of Pipeline Safety (OPS) issued a notice of proposed rulemaking (Docket No. OPS-31, Notice 74-7; 39 FR 34569) on September 20, 1974, which proposed the following definition:

'Gathering line' means a pipeline that transports gas from the point where gas is produced to the end of any treatment or other processing necessary to make the gas generally fit for consumers.

Subsequently, Notice 74-7 was withdrawn because OPS determined, as a result of the public comments and a discussion by the Technical Pipeline Safety Standards Committee (TPSSC), that many words and phrases were open to varied interpretation. For example, produced gas containing natural gas liquids, which normally would be removed by processing, might be "generally fit for consumers" in some cases but not others. Also, the word "treatment" could be construed to include odorization or the addition of propane to natural gas, causing some normal transmission or distribution functions to become gathering under the proposed definition.

The problem of distinguishing a gathering line did not abate after Notice 74-7 was withdrawn. State and Federal enforcement personnel and pipeline operators interpreted the definition of gathering line differently from each other. Consequently, OPS continued to try to develop a clear definition of "gathering line."

In response to a TPSSC request for information in 1986, OPS asked the National Association of Pipeline Safety Representatives (NAPSR), an association of state pipeline safety inspection personnel, for comments

concerning the extent of the interpretation problem. Responses from NAPSR members indicated that in the 30 states where gathering lines exist, there are at least 2,800 gathering operators and 111,000 miles of gathering lines (as interpreted by the states). NAPSR members from five states, with about 54 percent of the operators of gathering lines and 75 percent of the mileage, indicated they have had disagreements with operators over classification of rural pipelines as gathering lines or transmission lines. Members from three of these states indicated that the disagreements were too numerous to list. One NAPSR member indicated numerous disagreements with two major gas gathering and transmission pipeline operators regarding the point where the gathering line ended. Another NAPSR member indicated continuing disagreements over the classification of various segments of pipeline operated by one of the largest gas gathering line operators in the U.S.

Inspectors from the five regional offices of RSPA have had many disagreements with pipeline operators in Alaska, Arizona, California, Kansas, Kentucky, Louisiana, Michigan, New Mexico, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, West Virginia, and Wyoming over whether various pipelines are designated as gathering or transmission lines.

Because both RSPA inspectors and inspectors in states with a majority of gathering operators and 75 percent of the U.S. gathering line mileage have had numerous disagreements with pipeline operators over the meaning of "gathering line," RSPA believes the problem is well established.

In 1983, the 5th Circuit Court of Appeals interpreted the current definition of gathering in *Hammon vs. Southwestern Gas Pipeline*, 721 F. 2d 140 (5th Cir. 1983). In that private action, the Court held that Southwestern Gas line known as the "Worthington Lateral" was not a gathering line. In reaching its decision, the Court was forced into making two interpretations of the DOT definitions:

- (1) A production facility is a wellhead.
- (2) To be a gathering line a pipeline must connect directly to a production facility.

Since the "Worthington Lateral" did not attach directly to a gas well but rather led to several wells, through a block valve, the Court held that it was not a gathering line. The DOT did not participate in that litigation.

Alternative Definitions Discussed With Advisory Committee

Three draft proposed definitions of "gathering line" were discussed with members of the TPSSC at a meeting held in Washington, DC on September 22, 1987. Two of these proposed definitions which were developed by OPS were based solely on the function of the line. The third draft proposed definition discussed at that meeting was proposed by the State pipeline safety representatives from the Southwest Region. The state agencies in that region, which contain a large portion of the gathering lines in the country, suggested a definition based on function, stress level, size, and population density. The TPSSC deferred giving an opinion pending a review of any further draft revisions or a notice of proposed rulemaking.

A revised draft proposed definition developed by OPS was presented and discussed at a TPSSC meeting on September 13, 1988. That definition was based on function, stress level, and size. Under it, a "gathering line" was proposed to be defined as a pipeline 4 inches, or less, in nominal diameter operating at a stress level of less than 20 percent of SMYS that transports gas from a production facility. During that meeting a representative from American Petroleum Institute (API), presented written comments on the draft together with letters of support from industry associations and state agencies. This document is in the docket. The API stated that the proposed definition would result in many pipelines that were classified as gathering lines being re-classified as transmission pipelines. It states that the proposed definition would result in an estimated 197,000 additional miles of existing rural gathering lines being re-classified as transmission pipelines and cost the industry \$630,600,000 of initial implementation costs and recurring annual compliance costs of \$105,000,000. API argued that the pipeline safety benefits of the proposal are minimal because most of the 197,000 additional miles would be located in rural areas, where there is little risk to the public from the operation of these lines. The TPSSC voted unanimously that the proposed definition was not technically feasible, reasonable, or practicable.

RSPA met with several representatives from the American Petroleum Institute and the Interstate Natural Gas Association of America on January 31, 1989, to further discuss this issue. Another draft proposed definition was developed which was based on the function of the line, as previously

interpreted, rather than being based on pipe size and pressure. This proposed definition was sent to the state pipeline safety representatives for comments in the summer of 1989, which, with some minor revisions, is the proposed rulemaking in this NPRM. RSPA again met with representatives of API on November 6, 1990, to again discuss this definition as well as the definition of "production facility." This group supported a definition that was based on the function of the pipeline as previously interpreted. The API representatives believed that such an approach would result in few, if any, pipelines that had previously been classified as a "gathering line" to be re-classified as a "transmission line" and would result in minimal, if any, costs to industry.

During the most recent discussion with state pipeline safety representatives, some state agencies expressed a desire that the definition of gathering line be revised so as to add a part 192 jurisdiction a significant number of pipelines in rural areas that transport highly toxic sour gas. It is not the intent of this notice to extend the jurisdiction of part 192 to cover additional pipelines. RSPA is addressing the safety problems associated with transporting sour gas by pipeline in a separate rulemaking proceeding. An advance notice of proposed rulemaking published in that proceeding (54 FR 24361; June 7, 1989) will assist RSPA in determining if additional or more stringent regulations are needed for gas pipelines, including gathering lines, to safeguard the public against the hazards of sour gas.

Proposal

Most gas gathering lines have processing plants where the heavier hydrocarbons are removed from the gas to be sold separately. Downstream of the processing plant, the gas is in a condition fit for customers. Beyond the processing plant, the gas generally is transported for delivery to a distribution center; in some instances it is delivered directly to customers through service lines. Produced gas may reach a processing plant through one or a series of pipelines of the same or different owners, and may be commingled with gas from the same or different production fields.

In applying the current gathering line definition, RSPA has always interpreted a gathering line to end at the outlet of the gas processing plant. Five such interpretations during the period 1972-1990 are included in the docket. These interpretations are consistent with the following definition of "gathering

system" in the Manual of Oil and Gas Terms, Williams and Meyers, 7th Edition (1987).

The gathering lines (q.v.) pumps, auxiliary tanks (in the case of oil), and other equipment used to move oil or gas from the well site to the main pipeline for eventual delivery to the refinery or consumer, as the case may be. In the case of gas, the gathering system includes the processing plant (if any) in which the gas is prepared for the market

In addition, the processing plant and pipelines upstream from the first processing plant have traditionally been viewed as part of the gathering system by the Federal Energy Regulation Commission (FERC) and its predecessor the Federal Power Commission (*Phillips Petroleum Company*, (10 FPC 246, 277 (1951)). (*Rev'd on other ground*, 205 F.2d 706 (D.C. Cir. 1953); *Reversal aff'd*, 347 U.S. 672 (1954)). Federal Energy Regulatory Commission *Pacific Offshore Pipeline Company*, (18 FERC ¶61,070 (1982)). *Pacific Offshore Pipeline Company and Exxon Corporation* (Docket CP 74-35 and CJ 79-533 (March 17, 1981)). *Pacific Offshore Pipeline Company and Exxon Corporation* (15 FERC ¶61,235 (June 8, 1981)).

The TPSSC reviewed a draft of this NPRM on September 12, 1989 which included the processing plan in the definition of "gathering line." The Committee membership was concerned whether the Department had legal authority to end a gathering line at the outlet of the natural gas processing plant, thereby including the natural gas processing plant as part of the gathering system. Industry commenters at that TPSSC meeting contended that the natural gas plant should not be part of either the gathering or the transmission pipeline system. A "Position Paper" dated May 2, 1989, regarding the "Applicability of Natural Gas Pipeline Safety Act of 1968 (NGPSA) and Hazardous Liquid Pipeline Safety Act of 1979 (HLPESA) to gas processing plants" was presented at that meeting by a representative of the Gas Processors Association (GPA). The document is in the docket. In it, the GPA contends that although "(t)he NGPSA defines 'pipeline facilities' as (including) * * * the treatment of gas during the course of transportation * * * 49 U.S.C. 1671(4)", the term "treatment of gas" should not include gas processing plants. The GPA Position Paper drew a distinction between "treatment of gas" and "processing of gas," asserting that the "treatment of gas" refers to the removal of constituents (e.g., carbon dioxide, hydrogen sulfide, water etc.) which interfere with safe and efficient handling of gas while "processing of gas" usually

refers to the removal of constituents from the gas stream (e.g., liquefiable hydrocarbons, helium, etc.) which have a higher economic value when sold separately. Therefore, the GPA does not believe that gas processing plant facilities are included within the NGPSA definition of pipeline facilities and asserts that the Department has no statutory authority to regulate gas processing plants.

RSPA disagrees that the "treatment of gas" does not include the processing of gas. Under the GPA interpretation of the term "treatment of gas," RSPA could only regulate the gas treatment performed at the production facilities. Since we have generally held operations of production facilities to be excluded from regulation as not involved in transportation, the GPA interpretation would exclude all "treatment of gas" from regulation contrary to the language of the statute.

Nonetheless, because the current regulations in part 192 are not directly applicable to processing plants and because OSHA has proposed extensive regulations that would cover these processing plants (55 FR 29150; July 17, 1990), under the proposed definition, a "gathering line" would not include processing plants. Under the proposed definition, a "gathering line" would end at the inlet of the first natural gas processing plant downstream from production that removes liquefied petroleum gases or other natural gas liquids from the gas stream for commercial reasons. However, RSPA may re-examine this issue at a later date if the OSHA rules do not adequately address pipeline-related safety concerns at processing plants.

Not all plants that perform a processing function, however, are considered gas processing plants in accordance with the proposed definition. Natural gas, depending on the volume of gas transported and temperature differentials, will form light hydrocarbons while being transported in the transmission pipelines because of the recurring compression and subsequent pressure drops. "Straddle plants," as used in the gas pipeline industry, are located adjacent to gas transmission lines for the purpose of extracting these newly formed light hydrocarbon liquids from the gas. These "straddle plants" are not considered gas processing plants as used in the proposed definition of "gathering line" because these plants provide only supplementary re-processing of the gas necessary to the transmission rather than the gathering of gas. Furthermore, since these straddle plants are located

along the transmission pipeline and will not be the first natural gas processing plant used to remove liquefied petroleum gases or natural gas liquids on the gathering line, they should not be considered a processing plant. A processing plant, according to the proposed gathering line definition, would be located at the beginning of a transmission line (i.e., at the end of a gathering line).

While most gathering lines have processing plants, there is a small percentage of gathering lines that do not have such plants. When there is no processing plant, RSPA proposes to define the end of a gathering line as the point where custody of the gas is transferred to others who then transport the gas by pipeline to a distribution center, storage facility, or industrial consumers. These delivery points for the transported gas are characteristic of the delivery points in the definition of "transmission line." Such custody transfer normally would be to a transmission company, but it may be to a separate operating entity of the same company. Transfers usually occur at a meter.

Although typically a natural gas processing plant or point of custody transfer will mark the end of gathering, there is a very small percentage of produced gas that does not move through processing plants or change custody downstream as described above. As a basis for determining the end of gathering in that event, RSPA examined two other tests that FERC applies: The "primary function" test (*Ben Bolt Gathering Company*, 26 F.P.C. 825, 827 (1961), *aff'd* 323 F. 2d 610 (5th Cir. 1963), and the "central-point-in-the-field" test (*Barnes Transportation, Inc.*, 18 F.P.C. 369 (1957)).

The "primary function" test is a determinative procedure based on several indicia FERC has found common to gathering: (1) Pipe diameter and length, (2) location of compressors and processing plants, (3) extension of the facility beyond the central point in the field, (4) location of wells along the facility, and (5) geographical configuration of the system. (*Farmland Industries, Inc.*, 23 FERC 61,063 (1983).) The "central-point" test attempts to measure where the separate and various lateral lines in a production field bring gas to a central point for delivery to a single line. Beyond this point, gathering has ended for that production field and the single line is more an extension of the downstream transmission facility than a line collecting gas from wells. Although FERC applies both tests on a case-by-case basis, because the

"central-point" test is more objective, RSPA believes that for purposes of this rule, it provides a better basis for a definition of the end of the gathering of gas.

RSPA believes that the concept of a central point is represented by the point of last commingling of gas transported from separate production facilities in a single production field or adjacent production fields. Thus, RSPA is proposing that, in the absence of a downstream processing plant or point of custody transfer described above, a gathering line be defined to end at the last point downstream from a production facility where the produced gas is commingled with gas produced in the same production field or two adjacent production fields. Adjacent fields are fields that are next to each other but are not in contact with each other. Comments are requested if the term "adjacent" is adequate criteria to use in identifying the end of the gathering line in this situation. A "production field" would be defined as an area underlaid by at least one reservoir containing natural gas or natural gas associated with crude oil.

Exceptions to "Gathering Line"

The proposed definition includes three limitations to pipelines that may fit the definition of gathering line discussed above. First, once produced gas reaches the appropriate gathering end point described above, a pipeline that transports the gas beyond that end point would be either a transmission line or distribution line as defined by part 192. If a pipeline is designated as a transmission line or distribution line, no portion of it may be redesignated as a gathering line even if further commingling of gas occurs downstream. For example, further downstream, a transmission or distribution line may join lateral pipelines transporting gas from one or more production fields. Under the proposed definition of gathering line, these laterals would be gathering lines if there is no gathering end point on the lateral upstream from the junction with the transmission line, and the lateral gathering line would terminate at the junction with the transmission or distribution line. Even if laterals are classified as gathering lines, however, their commingling with gas from a transmission or distribution line would not change any segment of the transmission or distribution line to a gathering line. Under this concept, a pipeline would not lose its classification as a transmission or distribution line upon joining a lateral gathering line.

Secondly, if downstream from a production facility, there is no processing plant, no custody transfer of gas, and no commingling with gas produced in the same field or two adjacent fields, then under the proposed definition the pipeline that transports gas from the outlet of that production facility would not be a gathering line. Consequently, it would be either a transmission or distribution line. This situation might occur where gas is transported from a production facility to a distribution center through a pipeline operated by the distribution company. Another situation might occur where gas is transported to a consumer from a production facility through a pipeline owned by the consumer.

Thirdly, because the criteria proposed to delineate gathering lines could inadvertently result in classifying some interstate transmission facilities as gathering, language is proposed to expressly exclude from the definition of gathering line any pipeline facility subject to FERC jurisdiction under the Natural Gas Act (15 U.S.C. 717 *et seq.*). Under the Natural Gas Pipeline Safety Act of 1968, "interstate transmission facilities" are defined as all pipeline facilities used in the transportation of gas that are subject to FERC jurisdiction under the Natural Gas Act, other than certain direct sales lines. The Natural Gas Act does not apply to gathering lines. Thus, care must be taken not to define interstate transmission facilities subject to FERC jurisdiction as gathering lines.

Production Facility

The proposed gathering line definition includes any pipelines or part of a connected series of pipelines used to transport gas from a well or the first production facility where gas is separated from produced hydrocarbons, whichever is farther downstream. This conforms with § 192.1(b) which established the extent of applicability of Part 192 on the outer continental shelf, as well as establishing a similar demarcation line in state waters. The gathering system may include several production facilities, such as free-water knockout, dehydrator, scrubber, heater-treater, and similar production equipment. A flow line connects a wellhead to the first production facility downstream from a well. RSPA proposes the following definition of "production facility":

"Production facility" means (1) piping or equipment used in the production, extraction, recovery, treatment, separation or lifting of gas from the ground; or (2) associated measurement, storage of petroleum liquids, field compression, gas lift, gas injection, or

fuel gas systems that are used in the production of gas.

This definition is based on the definition of "production facility" in 49 CFR 195.2 and on the concept that "production" is the process of producing gas and oil from the ground. The production facilities will vary significantly in different production fields depending on the condition and methodology of the gas or oil being produced. Also, a production well can produce oil and gas and the gas is separated using the production facilities.

It should be noted that only those facilities associated with extracting gas from the ground and preparing it for transportation by pipeline are "production facilities." For example, storage and measurement facilities in use at the production site are "production facilities," but storage and measurement facilities in use in other parts of a pipeline system are not production facilities which are not related to the production and extraction process. Further, the term "production facility" applies only to gas production from wells and does not include gas manufacturing facilities.

Impact Assessment

RSPA has considered the impact of this rulemaking on pipeline operators who have historically treated pipelines as gathering lines exempt from part 192, but which could be re-classified under the proposed definition of "gathering line." RSPA believes that there would be very few of these pipelines because the proposed definition is very similar to the way the current definition of "gathering line" has been interpreted and enforced over the past twenty years. If there are any pipelines that are re-classified as transmission pipelines, those lines would only be subject to the operating and maintenance requirements and RSPA will assist the pipeline operator in overcoming any problems encountered in complying with those regulations.

If a gathering line is re-classified as a transmission line, that pipeline would be subject to the reporting requirement in part 191. RSPA seeks comments on how many miles of pipelines currently classified as gathering lines would have to be reclassified as transmission lines. Have these pipelines been the subject of dispute, between the pipeline operator and state or federal enforcement personnel? RSPA also seeks comments on any costs associated with reclassification.

This proposed rule is considered nonmajor under Executive Order 12291 because the proposed definition of "gathering line" is generally consistent

with RSPA's interpretations and enforcement practices regarding gathering lines, and, therefore will not result in an annual effect of the economy of \$100 million or more and will not result in a significant increase in consumer prices. The proposed rule is significant under Department of Transportation procedures (44 FR 11034) because the definition has been the subject of litigation. RSPA believes that a full Draft Evaluation is not necessary, because, if adopted, the proposed definition will have minimal economic impacts. In addition, the rule will reduce the confusion over classification of certain pipelines located in rural areas. RSPA welcomes comments on the economic impact of this rule.

Based on the facts available concerning the impact of this rulemaking action, I certify pursuant to section 605 of the Regulatory Flexibility Act that the action, if adopted as final, will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This proposed rule, does not amend current reporting and recordkeeping requirements. Because this rule is consistent with agency interpretation, RSPA believes that this proposed rulemaking will have a negligible effect on the reporting and record keeping currently required in gas pipeline safety regulations.

Federalism Assessment

RSPA has analyzed this proposed rule in accordance with the criteria and principles contained in Executive Order 12612 and has determined that it does not have sufficient Federalism implications to warrant preparing a Federalism Assessment. In clarifying the definition of gathering line this proposed rule will assist the State Pipeline Safety representatives to discharge their responsibilities under the Federal/State Pipeline Safety Program. None of the states participating with RSPA in enforcing part 192 wishes to assert its own definition of gathering line. Moreover, a variety of definitions at the state level would not be consistent with the policy of the NGPSA to get a minimum National floor for safety.

List of Subjects in 49 CFR Part 192

Gathering line, Pipeline safety, Production facilities, Transmission line.

RSPA proposes to amend part 192 of title 49 of the Code of Federal Regulations as follows:

1. The authority citation for part 192 continues to read as set forth below:

Authority: 49 App. U.S.C. 1672 and 1804; 49 CFR 1.53.

2. Section 192.3 would be amended by revising the definition of *gathering line*, and by adding definitions of *production facility* and *production field* as follows:

§ 192.3 Definitions.

Gathering line means, except as provided in paragraph (4), any pipeline or part of a connected series of pipelines used to transport gas from a well or the first production facility where gas is separated from produced hydrocarbons, whichever is farther downstream, to an applicable end point described in paragraphs (1), (2), or (3) below:

(1) The inlet of the first natural gas processing plant used to remove liquefied petroleum gases or other natural gas liquids.

(2) If there is no natural gas processing plant, the point where custody of the gas is transferred to others who transport it by pipeline to:

- (i) A distribution center;
- (ii) A gas storage facility; or
- (iii) An industrial consumer.

(3) If there is no natural gas processing plant or point where custody of the gas is so transferred, the last point downstream where gas produced in the same production field or two adjacent production fields is commingled.

(4) A gathering line does not include any part of a pipeline that transports gas downstream—

- (i) From the end points in (1), (2), or (3) in this definition;
- (ii) From a production facility, if no end point exists; or
- (iii) In any interstate transmission facility subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act (15 U.S.C. 717 *et seq.*).

Production facility means (1) piping or equipment used in the production, extraction, recovery, treatment, separation or lifting of gas from the ground; or

(2) associated measurement, storage of petroleum liquids, field compression, gas lift, gas injection, or fuel gas systems that are used in the production of gas.

Production field means an area that is underlaid by at least one reservoir containing natural gas or natural gas associated with crude oil.

Issued in Washington, DC on September 19, 1991, under authority delegated by 49 CFR part 106, appendix A.

George W. Tenley, Jr.,

Associate Administrator for Pipeline Safety.

[FR Doc. 91-23015 Filed 9-24-91; 8:45 am]

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INTERSTATE COMMERCE COMMISSION

49 CFR Part 1180

[Ex Parte No. 282 (Sub-No. 12)]

Transfer or Operation of Lines of Railroads in Reorganization

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission proposes to revise the regulations in 49 CFR part 1180 subpart B by (1) removing obsolete references to transactions under 45 U.S.C. 904(b) and 915(b); (2) updating the procedures and information requirements; and (3) making them apply exclusively to applications to transfer and applications for authority to operate the rail lines of bankrupt railroads under plans of reorganization under 11 U.S.C. 1172.

DATES: Comments must be submitted by October 25, 1991.

ADDRESSES: Send an original and 10 copies of comments referring to Ex Parte No. 282 (Sub-No. 12) to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar (202) 275-7245 [TDD for hearing impaired: (202) 275-1721].

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To obtain a copy of the full decision, write to, call or pick up in person from: Office of the Secretary, room 2215, Interstate Commerce Commission, Washington, DC 20423. Telephone: (202) 275-7428. (Assistance for the hearing impaired is available through TDD services (202) 275-1721.)

This action will not significantly affect either the quality of the human environment or the conservation of energy resources. It will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 49 CFR Part 1180

Railroads.

Decided: September 11, 1991.

By the Commission, Chairman Philbin, Vice Chairman Emmett, Commissioners Simmons,

Phillips, and McDonald. Commissioner McDonald commented with a separate expression.

Sidney L. Strickland, Jr.,
Secretary.

For the reasons set forth in the preamble, title 49, chapter X, part 1180 of the Code of Federal Regulations is proposed to be amended as follows:

PART 1180—RAILROAD ACQUISITION, CONTROL, MERGER, CONSOLIDATION PROJECT, TRACKAGE RIGHTS, AND LEASE PROCEDURES

1. The authority citation for part 1180 is proposed to be revised to read as follows:

Authority: 49 U.S.C. 10321, 10505, 11341, 11343-11346; 5 U.S.C. 553 and 559; and 11 U.S.C. 1172.

2. Subpart B of part 1180 is proposed to be revised to read as follows:

Subpart B—Transfer or Operation of Lines of Railroads in Reorganization

Sec.	
1180.20	Scope.
1180.21	Definitions.
1180.22	Contents of the application.
1180.23	Procedures.

§ 1180.20 Scope.

(a) The procedures in this subpart govern applications under 11 U.S.C. 1172 for the transfer or operation of lines of bankrupt railroads under a plan of reorganization.

(b) Transfer or operation of lines of bankrupt railroads not under a plan of reorganization are governed by the procedures in subpart D of part 1150 of this chapter if the buyer or operator is not a railroad or Subpart A of this part if the buyer or operator is a railroad.

§ 1180.21 Definitions.

(a) *Applicant*. The parties initiating a transaction.

(b) *Applicant carriers*. Applicant, all carriers related to applicant, and all other carriers involved in the transaction.

(c) *Bankruptcy Court*. The Bankruptcy Court having jurisdiction over Seller's bankruptcy.

(d) *Buyer*. The acquiring entity, and all carriers related to the acquiring entity.

(e) *Railroad*. Any common carrier by railroad as defined in 49 U.S.C. 10102(17)-(18).

(f) *Seller*. The bankrupt railroad.

§ 1180.22 Contents of the application.

Unless waived, the application must include the following information in the form of verified statements. All